

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**PHILIP DELPALAZZO,**

Plaintiff,

v.

**HORIZON GROUP HOLDING, LLC,**

Defendant.

**CIVIL ACTION**

**NO. 19-5682-KSM**

**ORDER**

**AND NOW**, this 2nd day of June, 2020, upon consideration of the defendant's Motion to Dismiss Plaintiff's Amended Complaint for Failure to State a Claim upon which Relief Can be Granted Pursuant to Fed. R. Civ. P. 12(b)(6) (Doc. No. 7), the plaintiff's response brief (Doc. No. 8), and the defendant's reply brief (Doc. No. 9), it is **ORDERED** that the defendant's motion is **GRANTED IN PART** and **DENIED IN PART** as follows:

1. The motion is **DENIED** as to Count II of the amended complaint.
2. The motion **GRANTED** as to Counts I and III of the amended complaint. The plaintiff shall have until **June 16, 2020** to file a second amended complaint that is consistent with the Court's memorandum opinion on the motion to dismiss.

**IT IS SO ORDERED.**

**/s/KAREN SPENCER MARSTON**

**KAREN SPENCER MARSTON, J.**